

REMARKS

[0003] Applicant respectfully requests entry of the following remarks and reconsideration of the subject application. Applicant respectfully requests entry of the amendments herein. The remarks and amendments should be entered under 37 C.F.R. §1.116 as they place the application in better form for appeal, or for resolution on the merits.

[0004] Applicant respectfully requests reconsideration and allowance of all of the claims of the application. Claims 1-16, 18-24, and 26-40 are presently pending. Claims amended herein are 1, 10, 19, and 26. Claims withdrawn or cancelled herein are 17, and 25. New claims added herein are none.

Request for Withdrawal of Finality

[0005] In accordance with MPEP 706.07(d), Applicant submits that the final rejection is premature. Applicant formally asks that the Examiner reconsider finality on of the rejections in this Action. Applicant submits that the Examiner should withdraw finality because final rejections were based on a reference herein removed via the Declaration under 37 C.F.R. 1.131, submitted herewith, and Applicant had no reason to provide evidence of the reference's invalidity earlier since the reference was first cited in the final office action.

[0006] Since the rejections of each of the currently presented claims, 1-16, 18-24, and 26-40, are incomplete, having been based in part on an invalid reference, Applicant submits that these rejections cannot properly be maintained. Accordingly, Applicant

respectfully requests the Examiner to withdraw the rejections of these claims. Applicant further asserts that these claims are allowable.

Statement of Substance of Interview

[0007] The Examiner graciously spoke with me—the undersigned representative for the Applicant—on July 30, 2007. Applicant greatly appreciates the Examiner’s willingness to talk. Such willingness is invaluable to both of us in our common goal of an expedited prosecution of this patent application.

[0008] During the interview, the Examiner and I discussed our respective interpretations of the cited references and the claims in an effort to distinguish the claims. No agreement was reached.

[0009] The Examiner was receptive to proposals to distinguish the claims and responded with additional suggestions. However, the Examiner indicated that he would need to review the cited art and do another search after receiving a formal response.

[0010] Applicant herein amends the claims to further clarify the claim features in a manner inspired by the interview. Accordingly, Applicant submits that the pending claims are allowable over the cited art of record for at least the reasons discussed during the interview.

Formal Request for an Interview

[0011] If the Examiner's reply to this communication is anything other than allowance of all pending claims, then I formally request an interview with the Examiner. I encourage the Examiner to call me—the undersigned representative for the Applicant—so that we can talk about this matter so as to resolve any outstanding issues quickly and efficiently over the phone.

[0012] Please contact me or my assistant to schedule a date and time for a telephone interview that is most convenient for both of us. While email works great for us, I welcome your call to either of us as well. Our contact information may be found on the last page of this response.

37 CFR 1.131 Affidavit regarding Prior Invention

[0013] Applicant herewith submits a declaration under 37 CFR 1.131 signed by the inventory indicating that the the subject matter of the instant application was conceived and reduced to practice before the effective date of the reference U.S. Patent Publication No. 2002/0198965, to Kraft, June 26, 2001. Therefore, Applicant respectfully requests that this reference be removed because it is not qualified as prior art. Applicant further asserts that the claims are allowable and requests that the case be passed along to issuance.

Claim Amendments

[0014] Without conceding the propriety of the rejections herein and in the interest of expediting prosecution, Applicant amends claims 1, 10, 19, and 26 herein. Applicant amends claims to clarify claimed features and in accordance with our telephone discussion with the examiner. Such amendments are made to expedite prosecution and quickly identify allowable subject matter. Such amendments are merely intended to clarify the claimed features, and should not be construed as further limiting the claimed invention in response to cited prior art.

Substantive Matters

Claim Rejections under § 103

[0015] Claims 1-16, 18-24, 26-40 are rejected under 35 U.S.C. § 103. At least in light of the disqualification of the reference, and without conceding that the remaining references disclose that for which they have been cited, Applicant submits that these rejections are moot.

[0016] Furthermore, in light of the amendments presented herein and the discussion during the above-discussed Examiner interview, Applicant submits that these claims are allowable.


[0017] Accordingly, Applicant asks the Examiner to withdraw these rejections and that the case be passed along to issuance.

Conclusion

[0018] All pending claims are in condition for allowance. Applicant respectfully requests reconsideration and prompt issuance of the application. If any issues remain that prevent issuance of this application, the Examiner is urged to contact me before issuing a subsequent Action. Please call/email me or my assistant at your convenience.

Respectfully Submitted,

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